

## **REMARKS**

Claims 1, 3-6, 30, 43, and 44 are amended, and claims 7-8, 13, 18, and 32-33 are canceled. Reconsideration and allowance of the present application in view of the above amendments and the following remarks is respectfully requested.

### **Substance of the Interview**

Applicant thanks Examiners Hayes and Jabr for granting and conducting the in-person interview on 01 November 2007 and for considering Applicant's arguments and amendment. Examiners Hayes and Jabr suggested clarifications to correct antecedent problems introduced by the amendment filed on 22 October 2007. Examiners Hayes and Jabr indicated that the amendments require further consideration.

### **Rejections based on 35 U.S.C. § 103**

#### A.) Applicable Authority

35 U.S.C. § 103(a) declares, a patent shall not issue when "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." The Supreme Court in *Graham v. John Deere* counseled that an obviousness determination is made by identifying: the scope and content of the prior art; the level of ordinary skill in the prior art; the differences between the claimed invention and prior art references; and secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966). To support a finding of obviousness, the initial burden is on the Office to apply the framework outlined in *Graham* and to provide some reason, or suggestions or motivation found either in the prior art references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the prior art reference or to combine prior

art reference teachings to produce the claimed invention. *See, Application of Bergel*, 292 F. 2d 955, 956-957 (1961). Recently, the Supreme Court elaborated, at pages 13-14 of the *KSR* opinion, that “it will be necessary for [the Office] to look at interrelated teachings of multiple [prior art references]; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by [one of] ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the [patent application].” *KSR v. Teleflex*, No. 04-1350, 550 U.S. \_\_\_\_ (2007).

B.) Obviousness Rejections Based on U.S. Patent No. 6,330,552 (Farrar) in view of U.S. Patent No. 7,020,621 (Feria).

Claims 1, 3-4, 7-10, 13-20, 30, 32-35, and 43-45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Farrar in view of Feria. This rejection is respectfully traversed for the reasons discussed below.

Independent claim 1, as currently amended, defines a method for assigning a monetary cost to a computer transaction. The method comprises, among other things, identifying two or more information technology services utilized to execute the computer transaction. The information technology services include telephone services, network access services, maintenance services, software services, support services, and hardware services. A monetary computer transaction cost associated with the two or more services is determined by: identifying each resource utilized to provide the two or more services, wherein a portion of an original cost or a depreciated cost of each identified resource is assigned to the computer transaction; determining a quality cost that represents a cost for a level of quality of the two or more services utilized to execute the transaction, where the quality cost for the two or more services comprises an availability cost that represents the cost for the availability of the two or more services and a response time cost that represents the cost of the response time for the two or more services; and

combining the portion of the original cost or depreciated cost and the quality cost to define the monetary computer transaction cost for each identified resource utilized to provide the two or more services. In turn, for each identified resource, the monetary computer transaction cost is summed to determine the monetary cost for the computer transaction, which is passed to a user executing the computer transaction.

It is respectfully submitted that the cited prior art, including Farrar and Feria, fails to teach or suggest, among other things, the amended requirement of *determining a quality cost that represents a cost for a level of quality of the two or more services utilized to execute the transaction, wherein the quality cost for the two or more services comprises an availability cost that represents the cost for the availability of the two or more services and a response time cost that represents the cost of the response time for the two or more services*, as recited in amended independent claim 1.

The Office contends that Farrar, at col. 6, ll. 9-19 and 56-61, in combination with Feria teaches or suggests the quality cost of amended independent claim 1.

Farrar, at col. 1, lines 50-55, teaches in database parlance “cost” is usually measured in terms of computer resources utilized by the computer in executing the SQL statement, for example, the number of I/O’s or CPU instructions. Further, Farrar, at col. 2, ll. 20-21, teaches “cost” also includes time to return results to a query. Farrar, at col. 3, ll. 20-30, defines “cost” to consist of resource vectors that include CPU instructions, number of disk seeks, kilobytes of I/O transfers, normal and persistent memory utilized, etc. Farrar, at col. 6, 9-19 and 56-61, teaches the elapsed time and page faults impact the execution time for a database query and are based on the available memory and message sizes used to execute the database query. Farrar does not teach or suggest the claimed quality cost that includes the availability cost and response time cost. Further, nothing in Farrar teaches or suggests the claimed “monetary

costs” for a computer transaction. Rather, Farrar, at col. 6, ll. 10-15, teaches measuring the elapsed time for a database query to create a “cost model” for predicting elapsed time for database queries. Contrary to Office allegations (*Final Office Action mailed 07/17/07 at p. 5*), Farrar does not teach or suggest the determining a “quality cost,” “monetary service providing cost,” or “monetary cost” for a database query or other computer transaction.

Feria in combination with Farrar fails to remedy these deficiencies. Feria, at col. 2, ll. 20-25, teaches a system to determine total cost of ownership. The costs employed by Feria, at col. 1, ll. 40-45, are base costs and ongoing costs, which include direct and indirect ongoing costs. These costs are utilized to determine the cost per user, not the “quality cost,” “monetary service providing cost,” or a “monetary cost” for a database query or other computer transaction. Feria at col. 4, ll. 60-61 defines cost in terms of capital expenditures. Feria, at col. 1, ll. 40-42, teaches a method to determine the capital expenditure per user of an information technology system. Feria, at col. 8, ll. 35-50, col. 11, ll. 21-44, and col. 14, l. 51-col. 15, l. 42, teaches calculating the total cost of ownership based on the capital expenditure for each user includes measuring various metrics based on the total labor costs to provide user support. The total labor costs depend on the total number of users, user call rates, and occurrence levels for particular type of network problems. However, nothing in Feria or Farrar, singularly or in combination, teaches or suggests determining a “quality cost” or “monetary cost” for a computer transaction based on a total monetary service provider cost for each resource utilized when executing the computer transaction.

Because Feria and Farrar fails to teach or suggest all elements of amended independent claim 1, a *prima facie* has not been presented. The Office reasons “[i]n the broadest reasonable interpretation, the lowest cost plan for execution is the plan that utilizes the least amount of resources, physical resources that cost the service provider monetarily, therefore

having a lower monetary cost.” (*Final Office Action mailed 7/17/07 at pp. 2-3*). Applicant respectfully notes, contrary to the Office’s reasoning, to achieve the lowest cost plan as defined in Farrar, a service provider may have to incur large “monetary costs” because the monetary cost of a quantity of memory and other physical resources required to implement the lowest cost plan is generally high and in most instances monetarily cost prohibitive. Farrar does not compare, and is not concerned with, “monetary cost” when attempting to achieve a performance goal. Additionally, the Office contends that a *prima facie* case is established because “[b]oth references are concerned with determining costs associated with the user of computing services.” (*Final Office Action mailed 7/17/07 at p. 3*). Applicant respectfully disagrees, Farrar and Feria are not interrelated references. Feria is concerned with total capital expenditures, which includes “monetary costs”, and Farrar is concerned with computational costs, which fails to consider “monetary costs.” There is nothing in Farrar or Feria to suggest that “monetary costs” are considered or should be considered when measuring the computational costs for achieving the performance goal as defined in Farrar.

Unlike Feria and Farrar, the invention of amended independent claim 1 requires, among other things, determining a quality cost that represents a cost for a level of quality of the two or more services utilized to execute the transaction, wherein the quality cost for the two or more services comprises an availability cost that represents the cost for the availability of the two or more services and a response time cost that represents the cost of the response time for the two or more services. Feria and Farrar, alone and in combination, fails to teach or suggest the monetary cost, quality cost, and total monetary service provider cost for the computer transaction. Accordingly, for at least the reasons above, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103 rejection and allowance of amended independent claim 1.

Independent claim 30, as currently amended, defines a method for executing a computer transaction. The method comprises, among other things, a user process requesting execution of a transaction. Two or more service processes to receive the user process request. The two or more service processes include telephone services, network access services, maintenance services, software services, support services, and hardware services. The two or more service processes execute the user process request and determine a monetary computer transaction cost associated with the execution of the user process request as a function of the services utilized to execute the transaction. The monetary computer transaction cost is determined by: identifying each resource utilized to provide the two or more service processes and assigning a portion of an original cost or a depreciated cost of each identified resource to the computer transaction in order to pass the monetary service provider cost to the user executing the computer transaction. Additionally, the monetary computer transaction cost for each identified resource comprises a quality cost of the two or more services associated with the execution of the transaction, wherein the quality cost includes an availability cost and a response time cost.

It is respectfully submitted that the cited prior art, including Farrar and Feria, fails to teach or suggest, among other things, the amended requirement of *the monetary computer transaction cost for each identified resource further comprises a quality cost of the two or more services . . . wherein the quality cost includes an availability cost and a response time cost*, as recited in amended independent claim 30.

The Office contends that Farrar, at col. 6, ll. 9-19 and 56-61, in combination with Feria teaches or suggests the quality cost of amended independent claim 30.

As discussed above with respect to amended independent claim 1, Farrar teaches computational costs of a database query, while Feria teaches the total cost of ownership, a monetary cost, on a per user basis. There is nothing in Farrar and Feria, alone and in

combination, that fairly teaches or suggest a “monetary service provider cost” and a “quality cost” for the computer transaction of amended independent claim 30. Accordingly, for at least the reasons above, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103 rejection and allowance of amended independent claim 30.

Independent claim 44, as currently amended, defines a system for assigning a monetary cost to a computer transaction requiring provider services. The system comprises, among other things, a service identification component, a resource identification component, and a cost assessment component. The service identification component for identifies two or more services necessary for conducting the computer transaction. The two or more services include telephone services, network access services, maintenance services, software services, support services, and hardware services. The resource identification component identifies resources utilized in providing the two or more services. The cost assessment component determines a monetary cost to a provider for each resource and the monetary cost for the computer transaction. The monetary cost for the computer transaction is determined as a function of a depreciated cost or an original for each utilized resource and a quality cost of each of the two or more services, where the quality cost comprises an availability cost and a response cost.

It is respectfully submitted that the cited prior art, including over Farrar and Feria, fails to teach or suggest, among other things, the amended requirement of *the monetary cost for the computer transaction is a function of a depreciated cost or an original cost for each utilized resource and a quality cost of each of the two or more services, wherein the quality cost comprises an availability cost and a response cost*, as recited in amended independent claim 44.

The Office contends that Farrar, at col. 6, ll. 9-19 and 56-61, in combination with Feria teaches or suggests the quality cost of amended independent claim 44.

As discussed above with respect to independent claim 1, Farrar teaches computational costs of a database query, while Feria teaches the total cost of ownership, a monetary cost, on a per user basis. There is nothing in Farrar and Feria, alone and in combination, that fairly teaches or suggest the “monetary service provider cost” and the “quality cost” for the computer transaction as defined in amended independent claim 44. Accordingly, for at least the reasons above, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103 rejection and allowance of amended independent claim 44.

Dependent claims 3-4, 9-10, 14-15, 19-20, 34-35, 43, and 45 further define novel features of the claimed invention and each depend, either directly or indirectly, from one of amended independent claims 1, 30, and 44. Accordingly, for at least the foregoing reasons with respect to independent claims 1, 30, and 44, dependent claims 3-4, 7-10, 13-15, 18-20, 32-35, 43, and 45 are believed to be in condition for allowance by virtue of their dependency. 37 C.F.R. 1.75(c). As such, withdrawal of the 35 U.S.C. § 103 rejection of dependent claims 3-4, 7-10, 13-15, 18-20, 32-35, 43, and 45 is respectfully requested.

C.) Obviousness Rejections Based on Farrar in view of Feria and further in view of U.S. Patent No. 5,822,750 (Jou).

Claims 5-6, 11-12, 16, and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Farrar in view of Feria as applied to amended independent claim 1 above, and further in view of Jou. This rejection is respectfully traversed.

Dependent claims 5-6, 11-12, 16, and 17 further define novel features of the claimed invention and each depend, either directly or indirectly, from amended independent claim 1. Accordingly, for at least the foregoing reasons with respect to amended independent claim 1, dependent claims 5-6, 11-12, 16, and 17 are believed to be in condition for allowance at



least by virtue of their dependency. 37 C.F.R. 1.75(c). As such, withdrawal of the 35 U.S.C. § 103(a) rejection of dependent 5-6, 11-12, 16, and 17 is respectfully requested.

### **CONCLUSION**

For at least the reasons stated above, claims 1, 3-6, 9-12, 14-17, 19-20, 30, 34-35, and 43-45 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned to resolve the same.

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Respectfully submitted,

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